

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re:

MIDNIGHT MADNESS DISTILLING
LLC,

Debtor.

Chapter 11

Case No. 21-11750-MDC

**APPLICATION OF BERLIN PACKAGING, L.L.C. FOR ALLOWANCE OF
ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 503(B)(9)**

Berlin Packaging, L.L.C. (“Berlin”), by and through its undersigned counsel, files this application (the “Application”) for allowance of an administrative expense claim in the amount of \$21,369.00 pursuant to section 503(b)(9) of title 11 of the United States Code (the “Bankruptcy Code”). In support of this Application, Berlin respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Consider of the Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory predicates for the relief requested in this Application are sections 105(a) and 503(b)(9) of the Bankruptcy Code.

BACKGROUND

3. On June 21, 2021 (the “Petition Date”), Midnight Madness Distilling LLC (the “Debtor”) filed a voluntary petition with this Court under chapter 11 of the Bankruptcy Code.
4. The Debtor has continued in possession of its property and the management of its business affairs as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. Prior to the Petition Date, Berlin was a supplier of goods to the Debtor; specifically, custom-labeled aluminum cans used by the Debtor to package certain of its distilled beverage products. Berlin continues to sell goods to the Debtor post-petition.

6. In the ordinary course of business, Berlin shipped goods to the Debtor which, upon information and belief, the Debtor received within twenty days prior to the Petition Date (the “20 Day Goods”). As of the Petition Date, Berlin is owed \$21,369.00 on account of the 20 Day Goods, for which the Debtor has not paid. A copy of the invoice, as well as proof of delivery, related to the 20 Day Goods is attached to this Application as **Exhibit A**.

RELIEF REQUESTED

7. By this Application, Berlin seeks entry of an order (i) determining that it has an allowed administrative expense claim against the Debtor in the amount of \$21,369.00 pursuant to section 503(b)(9) of the Bankruptcy Code (the “503(b)(9) Claim”) and (ii) authorizing and directing payment by the Debtor of the 503(b)(9) Claim.

8. Section 503(b)(9) of the Bankruptcy Code states as follows:

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including —

(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.

11 U.S.C. § 503(b)(9).

9. Within the twenty-day period preceding the Petition Date, the Debtor received the 20 Day Goods from Berlin in the ordinary course of the Debtor’s business, which are valued at \$21,369.00. The Debtor has not paid for these goods. Berlin has satisfied the requirements of

section 503(b)(9) of the Bankruptcy Code and is therefore entitled to an allowed administrative expense claim in the amount of \$21,369.00.

NOTICE

10. Notice of this Application has been provided to: (a) the Debtor; (b) the Office of the United States Trustee; (c) counsel to PNC Bank, N.A.; (d) the proposed purchaser of the Debtor's assets, ETOH Worldwide, LLC; and (e) all parties who have filed a notice of appearance and request for service of papers under Fed. R. Bankr. P. 2002. In light of the nature of the relief requested herein, Berlin submits that no other or further notice is necessary.

WHEREFORE, Berlin Packaging, LLC respectfully requests entry of an order: (i) allowing its section 503(b)(9) administrative expense claim in the amount of \$21,369.00; (ii) authorizing and directing the Debtor to make payment to Berlin in the amount of such claim; and (iii) granting such other and further relief as its just and proper.

Dated: July 27, 2021

BERLIN PACKAGING, L.L.C.

By: /s/ Julie Callsen
One of Its Attorneys

Julie A. Callsen (PA Bar No. 323883)
Tucker Ellis LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113
Phone: 216.592.5000
E-mail: julie.callsen@tuckerellis.com

and

Thomas R. Fawkes
Tucker Ellis LLP
233 S. Wacker Dr., Suite 6950
Chicago, Illinois 60606
Phone: 312.256.9425
E-mail: thomas.fawkes@tuckerellis.com